

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

GEORGE VANVLOOTEN

PLAINTIFF

V.

CIVIL ACTION NO.1:06CV379 LTS-RHW

NATIONWIDE MUTUAL FIRE INSURANCE COMPANY
and JOHN FRENCH and CROWLEY LINER SERVICES, INC.

DEFENDANTS

ORDER DENYING MOTION FOR RECONSIDERATION

The Court has before it the motion [34] of the defendants for reconsideration of the opinion [32] and order [33] granting the plaintiff's motion to remand this action to state court. In support of this motion the defendants have submitted the deposition testimony of Defendant John French (French) and the deposition testimony of Plaintiff Govert Vanvloten.

I have reviewed this testimony, and I find that in their depositions both witnesses have confirmed the substance of the affidavits they submitted in connection with the motion to remand. The defendants insist that the plaintiff's testimony is too uncertain to support a cause of action against French, and they attempt to draw a direct parallel with the testimony of the plaintiff in *Leonard v. Nationwide*, Civil Action No. 1:05cv475 LTS-RHW. However, in my opinion, the plaintiff's testimony in this action is sufficient to state a cause of action against French under the standards that apply in ascertaining whether a misjoinder of parties has occurred. As I stated in my original opinion [32], the legal standard I must apply requires that I accept the truth of the plaintiff's allegations and that I give every benefit of the doubt to the plaintiff. In applying that legal standard, I find that this case must be remanded to the court in which it was originally filed.

Accordingly, it is

ORDERED

That the defendants' motion [34] for reconsideration of the opinion [32] and order [33] granting the plaintiff's motion to remand this action is hereby DENIED.

SO ORDERED this 8th day of March, 2007.

s/ L. T. Senter, Jr.
Senior Judge